

**STATE OF ILLINOIS – DEPARTMENT OF LABOR
CONCILIATION/MEDIATION DIVISION
1 W. OLD STATE CAPITOL PLAZA, 3RD FLOOR
SPRINGFIELD, ILLINOIS 62701**

IN THE MATTER OF:

**TRAFFIC SAFETY COLLECTIVE
BARGAINING ASSOCIATION,**

Petitioner(s),

v.

**JOSEPH COSTIGAN, DIRECTOR OF
LABOR and the ILLINOIS DEPARTMENT OF
LABOR,**

Respondent.

STATE FILE NO. 15-H-JN08-0854

DATE OF NOTICE: August 8, 2014

CERT. MAIL/RETURN RECEIPT:

7013 3020 0001 9795 9196

NOTICE OF HEARING

PLEASE TAKE NOTICE that pursuant to section(s) 4 and 9 and of the Illinois Prevailing Wage Act [hereinafter, "PWA" or "Act"], 820 ILCS 130/0.01-12, Joseph Costigan, Director of Labor and the Illinois Department of Labor [hereinafter, "Respondent"] has received written objections filed by, Traffic Safety Collective Bargaining Association ["Petitioners"] and will convene a hearing in accordance with Article 10 of the Illinois Administrative Procedure Act, 5 ILCS 100/10-5-10-70 and the procedures stated in Respondent's rules at 56 Illinois Administrative Code 120.100 – 120.670.

**DATE: SEPTEMBER 11, 2014
TIME: 2:00 P.M.
PLACE: ILLINOIS DEPARTMENT OF LABOR
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601**

ADMINISTRATIVE LAW JUDGE:

**CLAUDIA D. MANLEY
CHIEF ADMINISTRATIVE LAW JUDGE
ILLINOIS DEPARTMENT OF LABOR
160 NORTH LASALLE STREET, SUITE C-1300
CHICAGO, ILLINOIS 60601**

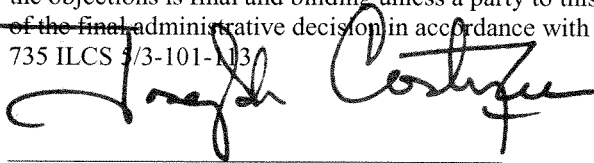
The hearing involves the written objections and hearing request (Exhibits A) filed by Petitioner(s) involving and effecting Respondent's determination of the classification(s) and/or reclassification(s) of craft(s), or type of laborer(s), worker(s) or mechanic(s), engaging in work on public works projects in the in the following counties: Boone, Cook DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, Lee. McHenry, Ogle and Will counties located within the State of Illinois and the prevailing rate of wages for the classification(s). Petitioner requests establishment of a new rate and classification as a Traffic Safety Worker I for Boone, DeKalb, Grundy, Kankakee, Kendall, Lee and Ogle. Petitioner also requests that a

Traffic Safety Worker II be established in Boone, Cook, DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, Lee, McHenry, Ogle and Will counties, Exhibit A.

The parties and their respective representatives must be prepared to proceed at the hearing. The parties must present all information, documents, records or witnesses necessary to substantiate their position(s) at the hearing.

Pursuant to 56 Illinois Administrative Code 120.640, the Administrative Law Judge shall render a decision and issue an order on the objections pursuant to 820 ILCS 130/4 and 9, 56 Illinois Administrative Code 120.100 – 120.670. The decision will be the decision for and of the Director of Labor. A certified copy of the final administrative decision shall be filed with the Secretary of State, and a copy served personal service or certified/registered mail on all parties to the proceeding.

The proceedings under this hearing are subject to judicial review in accordance with the provisions of the Administrative Review Law, 735 ILCS 5/3-101 - 3-113. The Director of Labor's determination on the objections is final and binding unless a party to this proceeding applies for and obtains judicial review of the final administrative decision in accordance with the provisions of the Administrative Review Law, 735 ILCS 5/3-101-113.

A handwritten signature in black ink, appearing to read "Joseph Costigan", written over a horizontal line.

Joseph Costigan
Director of Labor



SmithAmundsen

Julie A. Proscia, Esq.

Direct Dial: (630) 587-7911

Email: jproscia@salawus.com

July 30, 2014

Via Certified Mail and Overnight Delivery

Mr. Joseph Costigan
Director of the Department of Labor
Illinois Department of Labor
900 S. Spring Street
Springfield, Illinois 62701

Via Certified Mail Only

Illinois Department of Labor
Administrative Hearings
160 N. LaSalle Suite C-1300
Chicago, IL 60601

EXHIBIT A

Re: Traffic Safety Collective Bargaining Association's 820 ILCS 130/9 Objection to Prevailing Wage Schedule

Dear Mr. Costigan:

Our firm represents the Traffic Safety Collective Bargaining Association ("Association"). The Association represents various contractors that perform virtually all traffic safety work on public works in Illinois north of I-80. The Association is party to a collective bargaining agreement with a coalition of Teamsters Local Unions (Local Nos. 179, 301, 330, 673 and 731), which has and does establish the prevailing rate of wages and benefits for workers who perform traffic safety work on public works in this area.

This letter constitutes the Association's written notice of its objection to the Illinois Department of Labor's June 2014 Prevailing Wage determinations. This notice is provided pursuant to 820 ILCS §§ 130/4 and 130/9. In summary, the Association's objects to the following:

1. The Department's failure to ascertain and determine the prevailing rate for the classification of Traffic Safety Worker in the following counties: Boone, DeKalb, Grundy, Kankakee, Kendall, Lee and Ogle. The Association seeks an investigatory hearing pursuant to 820 ILCS §§ 130/4 and 130/9 to establish the classification of Traffic Safety Worker and its associated prevailing rates for these counties, which the Department did not do in its June 2014 determinations.

2. The Department's failure to ascertain and determine the prevailing rate for a classification of Traffic Safety Worker "II" in the following counties: Boone, Cook, DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, Lee, McHenry, Ogle and Will. The Association seeks an investigatory hearing pursuant to 820 ILCS §§ 130/4 and 130/9 to establish the classification of Traffic Safety Worker "II" and its associated prevailing rates for all of these counties.

The Department recognized the classification of Traffic Safety Worker in Cook, DuPage, Kane, Lake, McHenry and Will Counties in its June 2014 determination, as it historically has done, at a wage rate of \$32.75, a total benefit package of \$13.50, time and one-half wages after eight hours and on Saturdays and double-time wages for Sundays. Because the vast majority of workers performing this work have historically been covered by collective bargaining agreements with the above-named Unions, those agreements have historically set the prevailing rate for the classification, as is the case with the current Association agreement with the Unions. The Traffic Safety Worker classification recognized by the Department in Cook, DuPage, Kane, Lake, McHenry and Will counties encompasses:

- a. the installation and servicing of traffic safety devices during periods of roadway construction, including such work as the set-up and maintenance of barricades, drums, cones, delineators, signs, and other such items, as well as the layout and application or removal of *temporary* roadway markings used to control traffic in construction zones;
- b. the installation, servicing, maintenance, or removal of traffic safety devices *upon* jersey walls or other concrete walls or concrete barriers, but does not include the transportation, set-up, removal or maintenance of jersey walls or other concrete walls or concrete barriers; and
- c. flagging work done by Traffic Safety Workers for traffic safety companies' own operations as defined above is covered by the Traffic Safety Worker classification and wage rate.

Virtually all of the above-described work is performed by Traffic Safety Workers employed by the employer-members of the Association under the same collective bargaining agreement on public works in Boone, DeKalb, Grundy, Kankakee, Kendall, Lee and Ogle counties at the same wage and benefit rates set for Cook, DuPage, Kane, Lake, McHenry and Will counties. No workers in any other existing classification perform such work in Boone, DeKalb, Grundy, Kankakee, Kendall, Lee and Ogle counties.

Thus, because Traffic Safety Workers and these economic rates prevail on public works in Boone, DeKalb, Grundy, Kankakee, Kendall, Lee and Ogle counties, as they do in Cook, DuPage, Kane, Lake, McHenry and Will Counties, and because no other classification covers such work, the Department should establish the Traffic Safety Worker classification and these rates in these additional counties.

A separate and distinct subset of Traffic Safety Worker employed by the employer-members of the Association, under the same collective bargaining agreement, perform all work associated

with the installation and removal of *permanent* pavement markings and markers. These workers possess a knowledge base and skill set far greater than and wholly distinct from the knowledge base and skill set possessed by the basic Traffic Safety Worker or *any other* classification currently recognized by the Department. These workers operate specialized equipment that neither the basic Traffic Safety Worker nor *any other* classification currently recognized by the Department operates.

Traffic Safety Worker "IIs" perform have performed and do perform virtually all of the above-described permanent marking work on public works in Boone, Cook, DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, Lee, McHenry, Ogle and Will counties at a wage rate of \$33.75, a total benefit package of \$14.00, time and one-half wages after eight hours and on Saturdays and double-time wages for Sundays. No workers in any existing classification perform such work in these counties.

Thus, because the Traffic Safety Worker II and these economic rates unquestionably prevail on public works in Boone, Cook, DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, Lee, McHenry, Ogle and Will counties for the installation and removal of *permanent* pavement markings and markers, and because no existing classification covers such work, the Department should establish the classification and these rates in all of these counties.

In conclusion, the Association seeks the following:

- A. Traffic Safety Worker to be established in Boone, DeKalb, Grundy, Kankakee, Kendall, Lee and Ogle with wages of \$32.75, total benefit package of \$13.50, time and one-half wages after eight hours and on Saturdays, double-time wages for Sundays and a foreman rate of \$34.35. The work encompassed by the Traffic Safety Worker as currently recognized by the Department (as set forth above).
- B. Traffic Safety Worker II Permanent Marking to be established in Boone, Cook, DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, Lee, McHenry, Ogle and Will counties with wages of \$33.75, total benefit package of \$14.00, time and one-half wages after eight hours and on Saturdays, double-time wages for Sundays and a foreman rate of \$35.35. The work encompassed by the Traffic Safety Worker II is all work associated with the installation and removal of *permanent* pavement markings and pavement markers.

Thank you for your attention to this matter. Please contact me if you have questions and to schedule a date for the hearing.

Sincerely,
SmithAmundsen LLC



Julie A. Proscia, Esq.

CERTIFICATE OF SERVICE

I hereby certify that I caused to be served a copy of the foregoing:

Notice of Hearing

prior to 4:30 p.m. on August 8, 2014, to the following addresses shown below

via certified U.S. Mail, and placed on the Illinois Department of Labor's official

website at <http://www.illinois.gov/idol/Laws-Rules/legal/Pages/Hearings.aspx>:

Julie Proscia
Smith Amundsen
3815 E. Main St., Ste. A-1
St. Charles, IL 60174

Via messenger:

Valerie A. Puccini
Assistant General Counsel
Illinois Department of Labor
160 N. LaSalle St., Ste. C-1300
Chicago, IL 60601



Subscribed and Sworn to this 8th day of August, 2014


Notary Public

